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अधिसूचना

नई दिल्ली, 22 जून, 1995

का. आ. 569(अ).— केन्द्रीय सरकार ने, विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं. का. आ. 847 (अ), तारीख 27-11-1994 द्वारा “नेशनल सोशलिस्ट काउंसिल ऑफ नागालैंड” (एन एस सी एन) को जिसके अंतर्गत उसके सभी गुट और उसके विंग हैं, विधि विरुद्ध संगम घोषित किया था;

और केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं. का. आ. 916 (अ), तारीख 20 दिसम्बर, 1994 द्वारा विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण का गठन किया था जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री जे. के. मेहरा थे;

और केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना 21 दिसम्बर, 1994 को उक्त अधिकरण को यह न्यायनिर्णीत करने के प्रयोजन के लिए निर्देशित की थी कि उक्त संगम को जिसके अंतर्गत उसके सभी गुट और उसके विंग हैं, विधि विरुद्ध घोषित करने का पर्याप्त हेतु है या नहीं ;

और उक्त अधिकरण ने उक्त अधिनियम की धारा 4 की उपधारा (3) और प्रदत्त शक्तियों का प्रयोग करते हुए 25 मई, 1995 को एक आदेश किया था, जिसमें अधिसूचना का. आ. सं. 847(अ), तारीख 27 नवम्बर, 1994 में की गई घोषणा की पुष्टि की गई थी;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुसरण में, उक्त अधिनियम के उक्त आदेश को प्रकाशित करती है, अर्थात् :—

(आदेश अंग्रेजी अधिसूचना में प्रकाशित)

[फा. सं. 7/12/94-एन ई-II]

बी. एन. झा, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 22nd June, 1995

S.O. 569(E).—Whereas the Central Government in exercise of the powers conferred by sub-section 1 of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), declared the "National Socialist Council of Nagaland" (NSCN) and all factions and wings thereof as unlawful association, vide Notification of the Government of India in the Ministry of Home Affairs No. S.O. 847(E), dated 27-11-94;

And whereas the Central Government in exercise of the powers conferred by sub-section 1 of section 5 of the said Act, constituted vide Notification of the Government of India in the Ministry of Home Affairs No. S.O. 916(E) dated the 20th December, 1994 the Unlawful Activities (Prevention) Tribunal, consisting of Mr. Justice J. K. Mehra, Judge of the Delhi High Court;

And whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said Notification to the said Tribunal on the 21st December, 1994, for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association including all its factions and wings thereof as unlawful;

And whereas the said Tribunal, in exercise of the powers conferred by sub-section 3 of the section 4 of the said Act made an order on the 25th May, 1995; confirming the declaration made in the Notification S.O. No. 847(E) dated the 27 November, 1994;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said order of the said Tribunal, namely :—

REPORT

By a Notification of Ministry of Home Affairs published at New Delhi on 27th November, 1990 in the Gazette of India (Extraordinary), the Central Government in the exercise of its powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as "the said Act"), declared National Socialist Council of Nagaland (hereinafter referred to as "NSCN", as an unlawful association. Following the said Notification, Government of India issued a Notification U/s 5(1) of the said Act constituting a Tribunal presided over by Justice S.N. Phukan, who vide his order dated 25-5-91 confirmed the said notification dated 27-11-90 under Section 3(1) of the Act.

Under the provisions of Section 6(1) of the said Act, a notification issued under section 3 shall, if the declaration made therein is confirmed by the Tribunal, remain in force for a period of two years from the date on which the notification becomes effective.

Since the activities of NSCN continued, the Government issued another notification dated 27-11-92 and the said notification was also confirmed by the Tribunal presided over by Justice Jaspal Singh vide order dated 24-5-93.

The Government of India found that during the further period of 2 years, the secessionist and disruptive activities of NSCN had not come to a stop, but continued unabated. As a result the government issued yet another similar Notification on 27-11-94. The said Notification reads as under :—

S.O. 847(E).—Whereas the National Socialist Council of Nagaland, and all factions and wings thereof under various leaders, hereinafter referred to as NSCN, and the agencies purporting to act on or behalf of NSCN or in its name :—

- (1) has been declaring as its objective the securing to the people in Nagaland, the right to establish sovereign Nagaland, and thereby to secede from India.
- (2) has been engaging in activities intended to disrupt the sovereignty and integrity of India.
- (3) in pursuance of its objective has from time to time, reiterated its commitment to pursue the violent path for achieving its objective and unleashing a reign of terror and undermining the authority of the lawfully established government. The violent activities include —

(a) ambushes and attacks on posts, patrols and personnel of the security forces and the police with a view to inflicting casualties and snatching arms and ammunitions.

(b) looting and robbing of government treasuries, nationalised banks and other commercial establishments for augmenting their finances.

(c) assassination of persons allegedly opposed to their interest and killing of civilians suspected to be informers of the security forces or the police.

(d) extortion of funds, collection of rations, enlistment of new recruits, etc. : And whereas the Central Government is of the opinion that on the materials placed before it, the NSCN is an "unlawful association".

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the National Socialist Council of Nagaland (NSCN) including all its factions and wings as unlawful association.

And whereas the Central Government is further of the opinion that —

- (i) there has been a spurt in the strength of NSCN (I) cadres during the past two years

as compared to the position before the 27th November 1992;

- (ii) the violent activities of NSCN which were earlier confined to countryside jungles have now moved into urban areas;
- (iii) collection by NSCN of huge funds through extortions which are being utilised for acquiring more weapons and for funding the travels and stay of its leaders abroad for secessionist propaganda in international fora;
- (iv) NSCN is activity involved in acquiring an international image with a view to publicise their secessionist demands;

And whereas the Central Government is also of the opinion that the aforesaid activities of the NSCN are detrimental to the sovereignty and integrity of India, and if there is no immediate curb and control on these activities, NSCN will take the opportunity to re-group and re-arm itself, expand its cadre, procure sophisticated arms and ammunition, accelerate its extortionist activities, increase its secessionist propaganda abroad and cause heavy loss of lives of civilians and security forces.

Having regard to the above circumstances the Central Government is of the opinion that it is necessary to declare NSCN, and all factions and wings thereof as an unlawful association with immediate effect; and accordingly in exercise of the powers conferred by the proviso to sub-section (3) of said section 3 the Central Government directs that the notification shall, subject to any order that may be made under section 4 of the said Act, have effect from the date of its publication in the Official Gazette.

Following the aforesaid Notification, Government of India issued another Notification dated 20-12-94 constituting this Tribunal under sub-section (i) of section 5 of the said Act to adjudicate whether or not there is sufficient cause for declaring the National Socialist Council of Nagaland as unlawful.

With the constitution of this Tribunal, the resume on the aims, objectives and activities of NSCN has also been filed before this Tribunal which gives brief history of the origin of the insurgency in the North East, particularly with regard to Nagaland and various neighbouring States of Nagaland whereunder Statehood was granted to Nagaland in 1963. It is further mentioned that NSCN was formed on 21-1-1980 by those hardcore Naga underground leaders who did not accept the "Shillong Accord" (November 1975) and they embarked upon setting up an illegal parallel Government called the "Government of the People's Republic of Nagaland" (GPRN).

Immediately on being constituted the Tribunal under Section 5(i) of the said Act, notices were issued and served upon the State Governments of North East India and NSCN including by publication in the press is required under sub-section (2) of section 4 of the Act, but no one put in appearance on behalf of NSCN. However, the States of Manipur, Assam and Central Government were represented.

Documentary as well as oral evidence has been produced by the State Governments in proof of the activities listed in the aforesaid notification. Most of the witnesses examined were the police officers from Assam and Manipur. State of Manipur produced three witnesses being P.W. 1 to P.W. 3, whose statements were recorded at Shillong while the State of Assam produced 7 witnesses being P.W. 4 to P.W. 10, whose statements were recorded at Guwahati and the Central Government produced one witness being P.W. 11. The witnesses from Manipur and Central Government filed their statements on affidavits and at the time of hearing proved various documents which included certain First Information Reports (FIRs) and certain pamphlets in addition to further oral statements wherefrom it would appear that NSCN and its activists were resorting to the acts which amount to "unlawful activity" as defined under Section 2(f) of the said Act. Such activities are also listed in the aforesaid notification declaring it to be an "unlawful association".

On behalf of the Central Government apart from other documents, one pamphlet being Ext. P.W. 11/C was produced by its witness P.W. 11 wherefrom it appears that NSCN has approached. The Unrepresented Nations and Peoples Organisation (UNPO) and has secured full membership of the said organisation which is stated to be contrary to the principles of the said organisation such as —

- (i) Rejection of terrorism as an instrument of policy.
- (ii) Adherence to internationally accepted human rights standards.
- (iii) Respect for all people and population groups inhabiting within territories of the participating group.
- (iv) Representing a substantial section of its people.
- (v) Minority groups without any representational avenues in government hence inadequate representation in the United Nations Organisation (UNO).

It also appears from the same pamphlet that NSCN is levying taxes and are also resorting to looting, extortions, criminal acts and creation of a climate of lawlessness. These facts have also been proved by various witnesses and the documents including FIRs and case diaries produced by them.

The said Act defines "unlawful activity" in Section 2(f), and "unlawful association" in Section 2(g) which read as under :—

- (f) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—
- (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the

territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession;

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India;

(g) "unlawful association" means any association which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity."

The witnesses P.W. 1 to P.W. 3 proved the documents as Ext. P.W. 2A to 2H. P.W. 2 proved various FIRs being Ext. P.W. 2J-1 to J-80. P.W. 4 proved an FIR being Ext. P.W. 4A. P.W. 5 proved Ext. P.W. 5A to 5E. P.W. 6 proved Ext. P.W. 6A. P.W. 7 proved Ext. P.W. 7A to 7E. P.W. 8 proved Ext. P.W. 8A. 9 proved Ext. P.W. 9A to 9E. P.W. 10 proved Ext. P.W. 10A to P.W. 10C. P.W. 11 proved Ext. P.W. 11A to 11C. All these documents were proved by various witnesses on oath which when read with the oral statement of the witnesses prove that NSCN is resorting to the acts of looting, purchasing weapons, extortion of money with a view to acquire arms and ammunition to achieve their aims and objects of seceding from India and to establish a sovereign state of Naga people.

The said witnesses further deposed that insurgency and unlawful activities have been on the increase and are spread over to the States neighbouring Nagaland such as Manipur, Arunachal Pradesh, Meghalaya and Assam. It is not necessary to discuss the contents

of each of the FIRs or the affidavits or statements on oath which form part of the record of proceedings.

From the perusal of the evidence placed on record, it is proved that NSCN is now engaged in various violent activities and also activities which are intended to disrupt the sovereignty and integrity of India and that with the passage of time, the insurgency and unlawful activities have time, the insurgency and unlawful activities have increased and the NSCN has been openly advocating and practising separatism and appear to be following secessionist policies which amount to "unlawful activities" as defined in Section 2(f) of the Unlawful Activities (Prevention) Act, 1967. From the evidence brought on record it is evident that since the findings of the previous two tribunals there has been no improvement in the situation and no abatement of the said activities of NSCN has occurred.

In view of the evidence produced on record, I am satisfied that there is sufficient cause for declaring NSCN as an unlawful association. Consequently the declaration made by the Central Government vide Notification dated 27-11-94 issued under sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 is hereby confirmed.

May 25th, 1995

Sd.:-

J. K. MEHRA,
(Tribunal)

[F. No. 7/12/94-NE. 1]

B. N. JHA, Jt. Secy.